

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

EMERSON, Ralph W. et al.

Patent No.: RE39,543

Issue Date: April 3, 2007

Application No.: 08/977,644

Filing Date: November 24, 2007

For: *Use of Aromatic Aldehydes as
Insecticides*

Examiner: LEVY, Neil S.

Art Unit: 1615 Confirmation No.: 3349

CERTIFICATE OF ELECTRONIC TRANSMISSION UNDER 37
C.F.R. 1.8

I hereby certify that this correspondence, including listed enclosures,
is being electronically transmitted in Portable Document Form (PDF)
through EFS-Web via Hyper Text Transfer Protocol to the United
States Patent and Trademark Office in accordance with § 1.6(a)(4)
on:

Dated: June 10, 2008

Signed: 

Jennifer C. Black

PETITION IN RESPONSE TO NOTICE OF NON-ACCEPTANCE OF PATENT
MAINTENANCE FEE

Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants hereby petition for acceptance of the maintenance fee payment for year 11.5 of the
above-referenced patent.

This petition is in response to the Notice of Non-Acceptance of Patent Maintenance Fee dated
March 20, 2008. A copy of the same is enclosed (Exhibit 1).

The above-referenced patent is a re-issue of Patent No. 5,536,501 which issued July 16, 1996.

Patent No. 5,536,501 expired on July 15, 2004 for failure to pay the 7.5 year maintenance fee.

Consequently, a Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in
Expired Patent (37 C.F.R. § 1.378 (c)) was filed on September 23, 2005 including Check #303498 in the
amount of \$2,790.00 with the United States Patent and Trademark Office. Copies of the same are
enclosed (Exhibit 2).

A Decision dated November 4, 2005 was issued by the Office of Petitions. This decision stated that the Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in Expired Patent (37 C.F.R. § 1.378 (c)) was GRANTED and that the maintenance fee "is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision." A copy of the same is enclosed (Exhibit 3).

The subject re-issued patent granted under Patent No. RE39,543 on April 3, 2007.

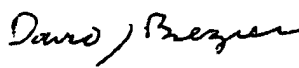
Based on the grant of the Petition and the reinstatement of Patent No. 5,536,501, a maintenance fee transmittal form with authorization for the Commissioner to charge the Maintenance Fee Amount and the Surcharge Amount for RE39,543 (referencing Patent No. 5,536,501) was filed with the United States Patent and Trademark Office on March 14, 2008 for the 11.5 Payment Year. A copy of the same is enclosed (Exhibit 4).

Based on the above set of facts, we hereby request the grant of this petition and acceptance of the maintenance fee payment for Year 11.5 of RE39,543.

The Commissioner is authorized to charge the payment of the 11.5 year maintenance fee (\$1,955.00) and surcharge (\$65.00) and any other fees, which maybe required, or credit any overpayment to Deposit Account No. 50-0310 (Docket No.: 067702-5002-US04) for the grant of this petition.

If there are any questions with regard to the foregoing, please call applicant's attorney at 415-442-1000.

Respectfully submitted,
MORGAN, LEWIS & BOCKIUS LLP

By: 
David J. Brezner, Reg. No. 24,744

Dated: June 10, 2008
Customer Number: 67374
MORGAN, LEWIS & BOCKIUS LLP (SF)
One Market, Spear Street Tower
San Francisco, California 94105
Telephone: (415) 442-1000
Facsimile: (415) 442-1001



UNITED STATES PATENT AND TRADEMARK OFFICE

67702-2000 US 07

PTO-2142 (09-05)

DIB-DM-(KLS)

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MORGAN, LEWIS & BOCKIUS LLP
ONE MARKET SPEAR STREET TOWER
SAN FRANCISCO, CA 94105
ATTN: DAVID BREZNER

DUCKETED

Aguel

March 20, 2008

NOTICE OF NON-ACCEPTANCE OF PATENT MAINTENANCE FEE

REGARDING PATENT NUMBER: RE39543

PAYMENT STATUS:

Payment Amount Received: \$ 2,020.00

No charge was applied to your deposit account.

Payment Year 11.5 (e.g., 3.5, 7.5, 11.5)

500310

PAYMENT RECEIPT DATE 03/14/2008
(Mailroom Date Stamp)

Your payment was not accepted for the following reason(s):

- ☐ 1. The maintenance fee for the above-identified patent was previously paid on _____.
☐ Information regarding the previous payment is stated in item 8 below.
- ☒ 2. The patent expired on 07/16/2004. See "Patent Expiration" section below.
- ☐ 3. The fee was paid too early. See 37 CFR 1.366(b). Pursuant to 37 CFR 1.362(d), the payment window will open for the above-identified patent on _____.
- ☐ 4. Your payment was not sufficient to cover the maintenance fee and any required surcharge for the above-identified patent. An additional amount of \$ _____ is/was required.
- ☐ 5. The above-identified patent was reissued. In accordance with 37 CFR 1.366(d), the reissue patent number and reissue application number must be provided.
- ☐ 6. The payment did not include corresponding patent and application numbers, and was not specially accepted.
- ☐ 7. The above-identified patent is not subject to maintenance fees. No maintenance fees are due on utility patents filed before 12/11/80. No maintenance fees are due on design patents or on plant patents. See 37 CFR 1.362(a) and (b). (The "Resubmitting Maintenance Fee Payment" and "Patent Expiration" sections below do not apply.)
- ☐ 8. Other: _____.

Resubmitting Maintenance Fee Payment

The six (6) month "grace period" for paying the maintenance fee for the above-identified patent begins on _____ and ends on _____. In addition to the maintenance fee of \$ _____, a resubmitted payment filed in the USPTO during the 6 month "grace period" is required to include a surcharge of \$ _____. (See "Note" at the bottom of this Notice.)

To avoid patent expiration, the maintenance fee plus any required surcharge must be resubmitted in a manner that rectifies all of the indicated reason(s) for payment non-acceptance and *must be filed on or before the date the 6 month "grace period" ends*. Send by facsimile to the Office of Finance, Maintenance Fee Branch at (571) 273-6500, or by mail to the following address: Mail Stop M Correspondence, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450, to the attention of the individual who has signed below.

Patent Expiration

The date the six (6) month "grace period" ends becomes the expiration date of the above-identified patent if the required amount for paying the maintenance fee is not filed in the USPTO by that date. See 37 CFR 1.362(g). Expired patents may be reinstated if a petition as set forth in 37 CFR 1.378 is granted. If the above-identified patent has expired and reason number 5 or 6 above is the only reason indicated for payment non-acceptance, it is possible that the payment may be accepted if resubmitted with a petition as set forth in 37 CFR 1.377, rather than 37 CFR 1.378.

If you have any questions regarding this Notice, contact the Office of Finance, Maintenance Fee Branch at (571) 272-6500. Please ask for the individual who has signed below.

Shannon Harrison (571) 272-6386

Printed Name of USPTO Representative

Shannon Harrison

Signature of USPTO Representative

NOTE: All USPTO fees (including patent maintenance fees) are subject to change. If you are making a payment, visit the www.uspto.gov website or contact the Office of Finance to verify the amount due on the date payment is to be made. A maintenance fee payment can be timely made using the certificate of mailing or transmission procedure set forth in 37 CFR 1.8.

EXHIBIT 1

PATENT

Attorney Docket No. A-70631
Attorney Matter No. 469201-41
Application No. 08/366,974

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Ralph W. Emerson, et al.

Patent No. **5,536,501**

Issue Date: **July 16, 1996**

Appl'n No. **08/366,974**


Filing Date: **December 30, 1994**

For: **USE OF FLAVENOID
ALDEHYDES AS INSECTICIDES
AND FOR KILLING ARACHNIDS**

Docket No.: **A-70631/DJB/DJM**

Certificate of Mail (37 C.F.R. § 1.8(a))

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop PETITION, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on September 23, 2005.


Lisa Jeanetta

Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**PETITION TO ACCEPT UNINTENTIONALLY
DELAYED PAYMENT OF MAINTENANCE FEE IN
EXPIRED PATENT (37 C.F.R. § 1.378(c))**

Sir:

This patent expired on July 15, 2004 for failure to pay the 7.5 year maintenance fee. This petition is filed within two years of the date on which the patent became abandoned.

The entire delay in payment of the maintenance fee from the due date for payment of the maintenance fee until the filing of this petition was unintentional, and revival of the patent is respectfully requested.

Enclosed is our check in the amount of \$2,790.00 (\$1,150.00 to cover the 7.5 year maintenance fee for a small entity, and \$1,640.00 to cover the surcharge after expiration under 37 CFR 1.20(i)(2)).

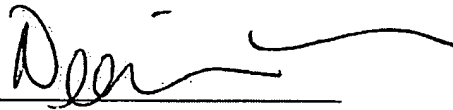
PATENT

Attorney Docket No. A-70631
Attorney Matter No. 469201-41
Application No. 08/366,974

The Commissioner is hereby authorized to charge any other additional fees which may be required or credit any overpayment to Deposit Account No. 50-2319 (Order No. 469201-41).

Respectfully submitted,

Date: 9/23/05

By: 
Diane J. Mason
Registration No. 43,777
Filed Under 37 C.F.R. § 1.34(a)

DORSEY & WHITNEY LLP
555 California Street, Suite 1000
San Francisco, CA 94104-1513
Telephone: (415) 781-1989 Facsimile: (415) 398-3249

DORSEY & WHITNEY LLP
SAN FRANCISCO ACCOUNTS PAYABLE

VENDOR ID: 35196

VENDOR NAME: Commissioner of Patents

CHECK DATE: 09/22/05

303498

INVOICE NO.	INV. DATE	INVOICE DESCRIPTION	AMOUNT PAID
DJM - 34	09-22-05	469201-00041	2,790.00
CONTROL NO.: 303498			TOTAL \$2,790.00

ORIGINAL CHECK HAS VOID PATTERN IN BACKGROUND AND ARTIFICIAL WATERMARK ON REVERSE SIDE. DO NOT CASH IF VOID IS VISIBLE OR WATERMARK IS ABSENT.

DORSEY & WHITNEY LLP
SAN FRANCISCO ACCOUNTS PAYABLE
555 California Street
Suite 1000
San Francisco CA 94104-1513

usbank
09/22/05
303498

PAY TWO THOUSAND SEVEN HUNDRED NINETY AND 00/100 Dollars

CHECK AMOUNT
\$2,790.00*****

TO THE ORDER OF
Commissioner of Patents and Trademarks

EXHIBIT 2

DORSEY & WHITNEY LLP

Atty Docket: A-70631/DJB/DJM
Dorsey Ref: 469201-41

In re application of: Ralph W. Emerson, et al.
Patent No.: 5,536,501
Issued: July 16, 1996
Application No: 08/366,974
Filed: December 30, 1994

The following has been received in the U.S. Patent Office on the date stamped hereon:

1. Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in Expired Patent (37 C.F.R. § 1.378(c));
2. Check No. 303498 in the amount of \$2,790 for fees (\$1,150) and surcharge (\$1640); and
3. This Postcard.

Certificate of Mailing: September 23, 2005

EXHIBIT 2

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO 4360
RECIPIENT ADDRESS 5921#469201#00041#15712730619#
DESTINATION ID
ST. TIME 09/23 12:10
TIME USE 01'01
PAGES SENT 3
RESULT OK



FAX COVER SHEET

The information contained in this facsimile message, if a client of this firm is a named addressee, or the message is otherwise intended for a client, is presumptively legally privileged and confidential information. If you are not a named addressee, or if there is any reason to believe that you may have received this message in error, (1) do not read the message below, (2) do not distribute or copy this facsimile; and (3) please immediately call us collect at the number of the sender below.

DATE:	September 23, 2005	TOTAL # OF PAGES: (INCLUDING THIS COVER SHEET)	3
TO:	Examiner Neil Levy	FAX #:	571-273-0619
FIRM NAME:	Group Art Unit 1616	PHONE #:	571-272-0619
FROM:	Diane J. Mason	FAX #:	(415) 398-3249
PHONE #:	(415) 544-7078	EMAIL:	mason.diane@dorsey.com

RE:

U.S. Patent Application No. 08/366,974
Filed: December 30, 1994
U.S. Patent No.: 5,536,501
Issued: July 16, 1996
Inventor: EMERSON, et al
Title: USE OF FLAVENOIS ALDEHYDES AS INSECTICIDES AND FOR KILLING ARACHNIDS
Atty Docket No.: A-70631/DJB/DJM

Dear Examiner Levy:

Attached please find a courtesy copy of *Petition to Accept Unintentionally Delayed Payment of maintenance Fee in Expired Patent* (37 C.F.R. § 1.378(c)) which we filed today with the U.S. Patent & Trademark Office.

A handwritten signature in cursive script, appearing to read 'Diane', followed by a horizontal line.

EXHIBIT 2



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 21

DORSEY & WHITNEY
555 CALIFORNIA STREET
SUITE 1000
SAN FRANCISCO, CA 94104-1513

COPY MAILED

NOV 04 2005

In re Patent No. 5,536,501
Issue Date: July 16, 1996
Application No. 08/366,974
Filed: December 30, 1994
Patentee(s) Ralph W. Emerson et al

OFFICE OF PETITIONS

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.378(c), filed September 26, 2005, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

Petitioner will not receive future correspondence related to maintenance fees for the above-identified patent unless a "fee address" indication form is submitted for the above-identified patent.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

The patent file is being forwarded to Files Repository.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions

469201-41
File 4-70631 Atty BJB/JM/LKS
Due Date 1/16/2008
Type 11.5 Fee Refs —

EXHIBIT 3

Substitute PTO-2038 (PTO-2038)
Received US Patent

MAR 18 2008

MAINTENANCE FEE TRANSMITTAL FORM

(Do not submit this form electronically via EFS-Web)

Address to:
U.S. Patent and Trademark Office
P.O. Box 979070
St. Louis, MO 63197-9000

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: "U.S. Patent and Trademark Office, P.O. Box 979070, St. Louis, MO 63197-9000"

- OR -

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office in accordance with § 1.6(d), facsimile number 571-273-6500.

- OR -

On: March 14, 2008

Fax to: 571-273-6500

Signature:

Typed or printed name: Richard J. Gutierrez

Enclosed herewith is the payment of the maintenance fee(s) for the listed patent(s).

- ☐ A check for the amount of \$ ____ for the full payment of the maintenance fee(s) and any necessary surcharge on the following patents is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☒ The Commissioner is hereby authorized to charge \$1,955 plus the \$65 surcharge to cover the payment of the fee indicated below to Deposit Account No. 50-0310 (Our Docket no. 67702-5002-US04).
- ☒ The Commissioner is hereby authorized to charge any deficiency in the payment of the required fee(s) or credit any overpayment to Deposit Account No. 50-0310 (Our Docket no. 67702-5002-US04).

*Information required by 37 C.F.R. 1.366(c) (columns 1 & 4). Information requested under 37 C.F.R. 1.366(d) (columns 2, 3, & 5)

Item	Patent Number*	U.S. Application Number* [06/555,555]	Maintenance Fee Amount (37 C.F.R. 1.20 (e)-(g))	Surcharge Amount (37 C.F.R. 1.20 (h))	Payment Year (select one below) Column 5		
	Column 1	Column 2	Column 3	Column 4	3.5 yrs	7.5 yrs	11.5 yrs
1	5,536,501 RE39,543	08/366,974 08/977,644	\$1,955	\$65			X
2							
3							
4							
5							
6							
Subtotals Columns 3 & 4					<input type="checkbox"/> additional sheets attached for listing additional patents.		
Total Payment			\$2,020				

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Respectfully submitted,**

Fee Address:

Customer's name: David J. Brezner
Reg. No. 24,774

Morgan, Lewis & Bockius LLP
One Market, Spear Street Tower, San Francisco,
California 94105

Telephone: 415.442.1000

Fax: 415.442.1001

Customer's Signature:

David J. Brezner

Note: All correspondence will be forwarded to the "Fee Address" or to the "Correspondence Address" if no "Fee Address" has been provided. See 37 C.F.R. 1.363. Payment of small entity fee is appropriate if small entity status still exists, see 37 C.F.R. 1.27(g). To establish small entity status or to change status from small to large entity, a written assertion is required. See 37 C.F.R. 1.27 and 1.33(b).

** WHERE MAINTENANCE FEE PAYMENTS ARE TO BE MADE BY AUTHORIZATION TO CHARGE A DEPOSIT ACCOUNT, BOTH THE NAME AND SIGNATURE OF AN AUTHORIZED USER ARE REQUIRED.

1-SF7677014.1

EXHIBIT 4